

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BARBARA SIMMONS,

Plaintiff,

vs.

M AND J TRUCKING, INC., DJS
EXPRESS, LLC, and STANDAGE
TRUCKING, INC.,

Defendants.

CASE NO.: 8:22-cv-25

NOTICE OF REMOVAL OF ACTION
(From the District Court of Deuel County,
NE, Case No. CI-21-37)

COMES NOW Defendant, Standage Trucking, Inc. (“Standage”), by and through its counsel of record, Engles, Ketcham, Olson & Keith, P.C., and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby removes to the United States District Court for the District of Nebraska the above-styled action, currently pending as Case No. CI 21-37 in the District Court of Deuel County, Nebraska (the “State Court Action”), and as grounds for removal, states as follows:

1. Plaintiff, Barbara Simmons (“Plaintiff”), filed her Complaint (the “Complaint”) in the State Court Action on or about December 22, 2021. A true and correct copy of the Complaint is attached hereto as Exhibit “A.
2. Defendant, Standage Trucking Inc., is a Nebraska corporation.
3. Defendant, M&J Trucking, Inc., is a California corporation.
4. Defendant, DJS Express, LLC, is a limited liability company organized in the state of Wyoming.
5. Upon information and belief, the members of DJS Express, LLC, are not citizens of the State of Nebraska.
6. The Complaint alleges Plaintiff is an individual residing in the state of North Carolina. Exhibit “A,” ¶ 1.
7. No responsive pleadings have been filed in the State Court Action prior to filing this Notice of Removal.
8. On or about December 22, 2021, Plaintiff filed the Complaint in the State Court Action. On or about December 22, 2021, Plaintiff filed a Praecipe for summons as against Standage and a summons was issued on December 23, 2021. This

constitutes the only “process, pleadings and orders” in the State Court Action of which Defendant is aware. *See* 28 U.S.C. § 1446(a).

9. The Complaint alleges tort causes of action in connection with an alleged traffic accident. The Complaint prays for relief of monetary damages as a result of the alleged tortious conduct that happened on Interstate 80 near mile marker 102, Deuel County, Nebraska.
10. This Court has original jurisdiction over the State Court Action under federal diversity jurisdiction, 28 U.S.C. § 1332, which provides, in relevant part, that:

[t]he district court shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between –

(1) citizens of different States.

- 28 U.S.C. § 1332(a)(1).
11. Plaintiff is diverse from all defendants because Plaintiff is a citizen of North Carolina, while Standage Trucking, Inc., is domiciled in the State of Nebraska; M&J Trucking, Inc., is domiciled in the State of California; and, upon information and belief, all members of DJS Express, LLC, are domiciled in the State of Wyoming.
12. Plaintiff seeks recovery of no less than \$242,332.39 in damages; accordingly, the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Exhibit “A,” ¶ 111.
13. Defendant’s removal of the State Court Action is timely. A defendant seeking removal of an action initiated in a state court must file a notice of removal with the district court within 30 days of service of the complaint upon the defendant. *See* 28 U.S.C. § 1446(b); *see also* *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 352-53, 119 S.Ct. 1322, 143 L.Ed.2d 448 (1999). Upon information and belief Standard was served no earlier than December 23, 2021; accordingly, this Notice of Removal is timely filed. *See* 28 U.S.C. 1446(b).
14. A copy of this Notice of Removal is being filed with the Clerk of the District Court of Deuel County, Nebraska, and is being served on Plaintiff. *See* 28 U.S.C. §§ 1446(a) & (d). The District Court of Deuel County, Nebraska is located within

this District.

15. Attached as Exhibits “A” thru “D” are all process, pleadings and orders on file in the State Court Action.

WHEREFORE, Defendant, Standage Trucking, Inc., hereby removes this case from the District Court of Deuel County, Nebraska where it is now pending, to this Court, and respectfully request that this Court assume full jurisdiction of this action, and henceforth place this action upon the docket of the Court for further proceedings.

DATED this 21st day of January 2022.

STANDAGE TRUCKING, INC., Defendant

By: /s/ Michael L. Moran
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 21, 2022, the foregoing document was filed electronically with the Clerk of the Court using the Nebraska e-filing system, which sent notification of such filing to the following:

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